IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY EIGHTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 3890 of 2005

Between:

Hameeda Begum, W/o.Late Syed Ahmed,
R/o.H.No.2-5-62/1, Gurudapeta Street,
Gadwal, Mahaboobnagar District.

..... PETITIONER

AND

1 The Municipal Commissioner, Gadwal Municipality, Gadwal,

Mahaboobnagar District.
2 The Assistant Director of Survey and Land Records, Mahaboobnagar.
3 Smt.Habeeb Bee, W/o.Late Abdul Rasheed,
R/o.2-5-62, Gurdapeta Street,
Gadwal, Mahaboobnagar Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly in the nature of writ of mandamus declaring the action of the respondents 1 and 2 in not demarcating the land sold as per the proceedings in file No.158/17/53 and 9/17/62 dt.21-7-1962 in respect of the plot sold to late Syed. Ahmed in the year 1962 and as per the approved plan of the year 1970 under the provisions of the Municipalities Act and surveys and Boundaries Act of 1973 as being illegal, arbitrary and amounting to dereliction of duty and pass such other order or orders in the interest of justice.

Counsel for the Petitioner:MRSYED SHAREEF AHMED

Counsel for the Respondent No.1 : MR.POLISETTI RADHAKRISHNA (SC

FOR MPL)

Counsel for Responent No.2 : G.P. for Revenue.

Counsel for Respondent No. 3 : ----

The Court at the stage of admission made the following ORDER:

The petitioner claims that her husband purchased a plot of land in the year 1962 from the first respondent Municipality. According to her, there existed certain vacant land around the plot purchased by them and that the third respondent had encroached on the part of it. The petitioner complains that when she approached the first respondent with a request to demarcate the plot purchased by her husband as well as the neighbouring area, with a view to take steps to remove encroachments, he is not extending any cooperation. Hence, this writ petition.

The learned standing counsel for the first respondent took notice on 01.03.2005, when the writ petition came up for admission. A counter-affidavit is filed by the first respondent. It is stated that even according to the petitioner, the plot was purchased more than 40 years ago and it is not possible for them to undertake any demarcation, at this stage.

Heard the learned counsel for the petitioner and the learned standing counsel for the first respondent.

The grievance of the petitioner is about the alleged inaction on the part of respondents 1 and 2 in demarcating the land sold to them in the year 1962. The petitioner does not allege that the third respondent had encroached into her land. Her grievance is that the neighbouring open space, left by the Municipality, has been encroached by the third respondent. Even if the allegation of the petitioner is true, she has to file a suit in a civil Court and seek necessary relief against the third respondent in accordance with law. More than four decades have elapsed, since the purchase of the plot by the husband of the petitioner. At this stage, the first respondent is not expected to be in

possession or custody of the records, nor can he be said to be under obligation to assist the petitioner in removing the encroachments.

For the foregoing reasons, this Court is not inclined to grant any relief to the petitioner. She has to work out her remedies in the civil Court.

Hence, the writ petition is disposed of, leaving it open to the petitioner to work out her remedies in the civil Court, and in case any records are required to be summoned, from respondents 1 and 2, it shall be open to her to take necessary steps in accordance with the procedure prescribed in the Code of Civil Procedure. There shall be no order as to costs.

28.04.2005

ksld

To

1 The Municipal Commissioner, Gadwal Municipality, Gadwal,

Mahaboobnagar District.
2 The Assistant Director of Survey and Land Records, Mahaboobnagar.
3 Two CCs. To the G.P. for Revenue, High Court of A.P., Hyderabad

(OUT).

4 2 CD copies

4 1 CC to MR.POLISETTI RADHAKRISHNA (SC FOR MPL)

*Form-NIC-OGS/WP{**JA**}*